

December 29, 2011

VIA ECF

Honorable William C. Griesbach
United States District Court Judge
Eastern District of Wisconsin
Green Bay Division
125 South Jefferson Street
P.O. Box 22370
Green Bay, WI 54305-2370

Re: *United States et al. v. NCR Corp. et al.*
Case No. 10-910-WCG

Dear Judge Griesbach:

We submit this letter on behalf of Defendant and Counterclaimant Menasha Corporation ("Menasha") and the Certain Defendants¹ (collectively, "Certain Defendants") regarding the *Consolidated Joint Reply Brief in Support of Motion to Enter Consent Decree With Brown County, the City of Green Bay, and Settling Federal Agencies* ("Reply Brief") (Docket Number ("Dkt.") 278) submitted to the Court by Plaintiffs and Counterclaim Defendants the United States and the State of Wisconsin (collectively, the "Governments"). The Reply Brief contains several significant misstatements by the Governments of the Certain Defendants' positions. However, rather than seek permission to file a Surreply, the Certain Defendants believe these issues can be addressed directly with the Court, and request oral argument be held on the pending motion prior to any decision by the Court.

The Governments misstate the Certain Defendants' arguments in opposition to the proposed consent decree. For example, the Governments assert that:

- Certain Defendants do not object to the data and assumptions used in the settlement analysis, or that the settlement analysis used worst-case or near worst-case dredging data (Reply Brief, at 1);

¹ The "Certain Defendants" include P.H. Glatfelter, WTM I, Menasha Corporation, CBC Coating, Neenah-Menasha Sewerage Commission, U.S. Paper Corp., and the City of Appleton.

- None of the evidence submitted by the Certain Defendants undermines the Governments' assertion that "navigational dredging almost certainly had a net positive impact on the River" (Reply Brief at 3); and,
- The non-monetary terms of the proposed settlement are consistent with the terms of prior settlements approved by the Court (Reply Brief at 19-21).

These all mischaracterize the Certain Defendants' positions, and ignore evidence submitted by the Certain Defendants, including unrebutted expert testimony, that speaks to the contrary.

The list above is illustrative, and does not include all points the Certain Defendants believe were misstated by the Government. Based on the above, the Certain Defendants request the Court set this matter for oral argument prior to any ruling on the pending motion.

Respectfully submitted,

Hunsucker Goodstein & Nelson PC

/s/ David A. Rabbino

David A. Rabbino

DAR:mdb